IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR

J U D G M E N T

Kalu Ram Vs. State of Rajasthan

S.B.CRIMINAL APPEAL NO.33/1987
against the judgment dt.15.1.1987
passed by Special Judge, EC Act Cases, Dungarpur,
in Sessions Case No.1/1985.

Date of Judgment: July 18, 2007

P R E S E N T

HON'BLE MR.JUSTICE DEO NARAYAN THANVI

Mr.Sanjay Mathur, for appellant.
Mr.V.R.Mehta, Public Prosecutor.

BY THE COURT:

1. This appeal is directed against the judgment of the learned Special Judge, E.C.Act Cases, Dungarpur, whereby he convicted the accused appellant Kalu Ram under Section 3/7 of the Essential Commodities Act, 1955, hereinafter referred-to as "the Act", and sentenced him to undergo two years' rigorous imprisonment and to pay a fine of Rs.2000/- and in

default, to further undergo six months' R.I.

2. This appeal was decided by this court on 14.4.2001, whereby conviction of the accused appellant was set aside but the State went in appeal before the Hon'ble Supreme Court and while disposing-of this appeal on December 2, 2002, the Hon'ble Supreme Court remanded the case back to this court for rehearing and re-disposal in accordance with law. It was observed in the order of the Hon'ble Supreme Court that the impugned judgment of the High Court cannot be held to be a judgment of the Appellate Court, as no reasons have been assigned in it.

3. I have heard the arguments of the learned counsel for the appellant and learned Public Prosecutor.

4. It is true that the entries in the tour diary from 14.10.1984 to 20.10.1984 are antedated and there is an interpolation in the figures of inspection from “20” to “17” and “15” to “12”. These entries and interpolations alone are in the green ink and rest of the entries in the Register are in blue ink. It appears that this tour diary has been filled later-on, when the search was made

otherwise there could not have been an interpolation in the figures of inspection from blue to green ink. However, there is a confessional statement of the accused appellant (Ex.P.4) in which he has admitted that ten bags of sugar were not in his Stock Register and these bags were given to Dinesh, co-accused, who has been acquitted by the learned trial court. There seems no inducement, threat or promise from the side of the inspector while giving this statement, except the statement of the accused himself recorded during trial so as to hit the provisions of Section 24 of the Indian Evidence Act. No other prosecution witness has said so about the inducement etc. on accused. Learned counsel for the appellant submits that if the court relies upon this statement and comes to the conclusion of guilt of the accused, he should be sentenced to the period already undergone because during trial as revealed from the warrant, he had been in custody for 35 days.

5. Though the minimum sentence of three months has been provided under the act but looking to the long protracted trial of about 23 years, ends of justice will meet if the accused is sentenced to the period already undergone, which seems to be quite adequate and

sufficient.

6. Consequently, this appeal is allowed in part. While maintaining the conviction of accused appellant Kalu Ram under Section 3/7 of the Act, the sentence of two years' R.I. awarded to him is set aside and instead, he is sentenced to the period already undergone. However, the sentence of fine shall remain intact.

(DEO NARAYAN THANVI), J.

RANKAWAT JK, PS